

GEORGE L. LAHUSEN

IBLA 80-39

Decided February 6, 1980

Appeal from a decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease offer U-43336.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:  
Applications: Drawings

A simultaneous oil and gas lease offer is properly rejected where the drawing entry card is dated more than 10 days prior to the beginning of the filing period.

APPEARANCES: Joseph Coleman, Esq., Dufford, Waldeck & Williams, Grand Junction, Colorado, for appellant; Craig R. Carver, Esq., Head, Moye, Carver & Ray, Denver, Colorado, for adverse party.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

George L. Lahusen appeals from a decision of the Utah State Office, Bureau of Land Management (BLM), dated September 7, 1979, rejecting oil and gas lease offer U-43336.

Appellant's drawing entry card (DEC) was drawn with first priority for parcel UT 70 in the May 29, 1979, drawing of simultaneous oil and gas lease offers conducted by the Utah State Office. BLM rejected the offer for the following reason:

The list of lands subject to simultaneous filing of oil and gas offers was posted on May 21, 1979. Offers to lease these lands were acceptable under the regulations in 43 CFR 3112.1-2 until the fifth working day thereafter.

A successful simultaneously filed oil and gas entry card is not to be rejected when the card is signed prior

to the date of the beginning of the simultaneous filing period unless it is dated more than 10 days prior to the date it is filed. Kathryn J. Eckles, Harley L. Williamson, 28 IBLA 390 (1977).

The subject drawing entry card was dated 4/25/79 which is more than 10 days prior to the filing period and is hereby rejected.

On appeal, appellant contends that the DEC was actually signed on May 25, 1979, which is within the filing period and that the DEC was inadvertently misdated. He offers extrinsic evidence tending to establish the fact that the DEC was dated on May 25, 1979. Appellant argues that the actual date the DEC was signed is controlling and not the date that appears on the card.

The pertinent regulation, 43 CFR 3112.2-1(a), provides:

Offers to lease such designated leasing units by parcel numbers must be submitted on a form approved by the Director, "Simultaneous Oil and Gas Entry Card" signed and fully executed by the applicant or his duly authorized agent in his behalf. The entry card will constitute the applicants' offer to lease the numbered leasing unit by participating in the drawing to determine the successful drawee.

In Kathryn J. Eckles, Harley L. Williamson, 28 IBLA 390 (1977), this Board determined that a DEC did not have to be dated on the exact date it is filed. Instead, to allow for mailing, the Board determined that a DEC would not be rejected if dated 10 days prior to the beginning of the filing period. Eckles relied upon Race v. Larsen, 43 L.D. 313 (1914), and the regulation that resulted from Race, 43 CFR 1812.2(2), which apply to applications to make entry. The 10-day rule was explicitly made applicable to oil and gas filings. Eckles, supra at 393.

Appellant's argument that the actual date the DEC was signed, as shown by extrinsic evidence, is the controlling date rather than the date appearing on the card must be rejected. Additional information cannot be submitted after the drawing to "cure" defects in the card. Herbert Adler, 42 IBLA 228, 230 (1979); James D. Caddell, 25 IBLA 274, 276 (1976). The DEC carried a date more than 10 days prior to the beginning of the drawing filing and was therefore properly rejected.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman  
Administrative Judge

We concur:

Joan B. Thompson  
Administrative Judge

Douglas E. Henriques  
Administrative Judge

